

AMENDED IN ASSEMBLY JUNE 29, 2009

AMENDED IN SENATE APRIL 27, 2009

AMENDED IN SENATE APRIL 22, 2009

AMENDED IN SENATE APRIL 16, 2009

AMENDED IN SENATE APRIL 1, 2009

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**SENATE BILL**

**No. 388**

**Introduced by Senator Calderon**

February 26, 2009

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An act to add Section 66407 to the Education Code, relating to college textbooks.

LEGISLATIVE COUNSEL'S DIGEST

SB 388, as amended, Calderon. Educational materials.

The Donahoe Higher Education Act authorizes the activities of the 4 segments of the postsecondary education system in the state. These segments include the 3 public postsecondary segments: the University of California, which is administered by the Regents of the University of California, the California State University, which is administered by the Trustees of the California State University, and the California Community Colleges, which is administered by the Board of Governors of the California Community Colleges. Private and independent postsecondary educational institutions constitute the other segment.

Existing law urges textbook publishers to take specified actions aimed at reducing the amounts that students pay for textbooks. Existing law requires the Trustees of the California State University and the Board of Governors of the California Community Colleges, and requests the Regents of the University of California, among other things, to work

with the academic senates of each respective segment to encourage faculty to give consideration to the least costly practices in assigning textbooks, to encourage faculty to disclose to students how new editions of textbooks are different from previous editions and the cost to students for textbooks selected, to review procedures for faculty to inform college and university bookstores of textbook selections, and to encourage faculty to work closely with publishers and college and university bookstores in creating bundles and packages that are economically sound.

Existing law expresses the intent of the Legislature to encourage private colleges and universities to work with their respective academic senates, and to encourage faculty to consider practices in selecting textbooks that will result in the lowest costs to students.

Existing law requires textbook publishers, for textbooks published on or after January 1, 2010, to print a summary of the substantive content differences between the new edition and any prior addition on, or within, the cover of the textbook, as well as the copyright date of the previous edition.

Existing law prohibits those responsible for choosing course materials and adopting textbooks at an institution of higher education from demanding or receiving anything of value for adopting specific course materials required for coursework instruction.

This bill would *enact the Accountability in College Textbook Publishing Practices Act, as part of the Donahoe Higher Education Act, which would require any publisher of college textbooks who that provides any information regarding college textbooks or supplemental materials, as defined, to disclose in writing to any faculty member or entity charged with selecting textbooks the amount that the textbook would be made available to the campus bookstore. The bill would require the publisher to make the textbook available at that price for at least 6 months and would require the publisher to inform the institution 45 days in advance of any price increase. The bill would require the publisher to inform the institution of previous editions and the substantial content revisions made from the previous edition. make the price of the textbooks or supplemental materials available on its Internet Web site, to charge no more than the price shown on its Internet Web site on the date that an order is received, and if the price is otherwise changed, to include the amount of the change and the date of the change on its Internet Web site. The bill would also require a publisher to provide bundled textbooks and supplemental material separately.*

*The bill would require the campus bookstore to make the textbook or supplemental material available for sale at a price not exceeding an amount that is 20% greater than the price quoted by the publisher.*

This bill would allow an action for an injunction to be brought against a publisher *or a campus bookstore* in superior court for violating these provisions. *The bill would state that it would become operative on July 1, 2010.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 66407 is added to the Education Code,  
2 to read:  
3 66407. (a) This section shall be known and may be cited as  
4 the Accountability in College Textbook Publishing Practices Act.  
5 (b) It is the intent of the Legislature that every student seeking  
6 a higher education in the state is offered affordable access to course  
7 materials and to do all of the following:  
8 (1) To encourage textbook publishers and distributors to work  
9 with faculty to promote understanding of the cost to students of  
10 purchasing faculty selected textbooks, including the disclosure of  
11 prices and bundling practices.  
12 (2) To encourage innovation in the development and use of  
13 course materials, including open textbooks and other open  
14 educational resources, that can help students receive the full value  
15 of their educational investment without excessive cost.  
16 (3) To ensure that faculty members are informed of accurate  
17 and relevant pricing information for course materials and that  
18 students are protected as a consumer group.  
19 (4) To strengthen and enforce existing federal regulations.  
20 (c) As used in this section, the following terms have the  
21 following meanings:  
22 (1) “*Bundle*” means one or more college textbooks or other  
23 supplemental learning materials that may be packaged together  
24 to be sold as course material for one price.  
25 (2) “*Campus bookstore*” means the bookstore on the campus  
26 of, or otherwise associated with, an institution of higher education.  
27 (H)

(3) “College textbook” means a textbook or set of textbooks used for, or in conjunction with, a course at an institution of higher education.

~~(2) “Supplemental material” means educational material developed to accompany a college textbook, which may include printed materials, computer disks, Internet Web site access, and electronically distributed materials.~~

~~(3) “Bundle” means one or more college textbooks or other supplemental learning materials that may be packaged together to be sold as course material for one price.~~

(4) “Custom textbook” means a college textbook that is compiled by a publisher at the direction of a faculty member or other person or adopting entity in charge of selecting course materials at an institution of higher education and may include, alone or in combination, items such as selections from original instructor materials, previously copyrighted publisher materials, copyrighted third-party works, and elements unique to a specific institution, such as commemorative editions.

~~(5) “Integrated textbook” means a college textbook that is combined with supplemental materials developed by a third party that, by third-party contractual agreement, may not be offered by publishers separately from the college textbook with which the supplement materials are combined. “Integrated textbook” also means a textbook that is combined with supplemental materials that are so interrelated with the content of the textbook that the separation of the textbook from the supplemental materials would render the textbook unusable for its intended purpose.~~

(5) “Publisher” means a publisher of college textbooks or supplemental materials that markets college textbooks or supplemental materials to faculty members at institutions of higher learning.

(6) “Substantial content” means parts of a college textbook, such as new chapters, additional eras of time, new themes, or new subject matter.

~~(7) “Publisher” means a publisher of college textbooks or supplemental materials that markets college textbooks or supplemental materials to faculty members at institutions of higher education.~~

(8) “Campus bookstore” means the bookstore on the campus of, or otherwise associated with, an institution of higher education.

1 (7) “*Supplemental material*” means educational material  
2 developed to accompany a college textbook, which may include  
3 printed materials, computer disks, Internet Web site access, and  
4 electronically distributed materials.

5 (9)

6 (8) For purposes of this section, “writing” includes electronic  
7 communications.

8 (d) If a publisher provides a faculty member or entity in charge  
9 of selecting course materials at an institution of higher education  
10 with information regarding a college textbook or supplemental  
11 material, the publisher shall include all of the following  
12 information, in writing, in its communication:

13 (1) ~~The price at which the publisher would make the college~~  
14 ~~textbook or supplemental material available to the institution’s~~  
15 ~~campus bookstore.~~

16 (2) ~~The copyright dates of the three previous editions of the~~  
17 ~~college textbook in the preceding 10 years, if any.~~

18 (3) ~~The substantial content revisions made between the current~~  
19 ~~edition of the college textbook or supplemental material and the~~  
20 ~~previous edition, if any.~~

21 (4) ~~Whether the college textbook or supplemental material is~~  
22 ~~material, the publisher shall also communicate whether the college~~  
23 ~~textbook or supplemental material is available in any other format,~~  
24 ~~including paperback or unbound, and the price at which the~~  
25 ~~publisher would make the college textbook or supplemental~~  
26 ~~material in the other format available to the institution’s campus~~  
27 ~~bookstore.~~

28 (e) If a publisher provides a faculty member or entity in charge  
29 of selecting course materials at an institution of higher education  
30 with the price at which the publisher would make the college  
31 textbook or supplemental material available to the institution’s  
32 campus bookstore as required by this section, the publisher shall  
33 do both all of the following:

34 (1) ~~Make the college textbook or supplemental material available~~  
35 ~~to that institution’s campus bookstore at or below the price for at~~  
36 ~~least six months.~~

37 (2) ~~Notify the faculty member or entity in charge of selecting~~  
38 ~~course materials, and the campus bookstore, in writing, of any~~  
39 ~~increase in the price of the textbook or supplemental material,~~

1 including the amount of the increase, at least 45 days in advance  
2 of the increase.

3 (1) *Make the price at which the textbook or supplemental*  
4 *material is made available to the institution's campus bookstore*  
5 *available on the publisher's Internet Web site.*

6 (2) *Charge no more than the price shown on the publisher's*  
7 *Internet Web site on the date that the order is received from the*  
8 *institution's campus bookstore by the publisher.*

9 (3) *If after a price is provided, but before an order is placed,*  
10 *the publisher changes the price at which it will make a textbook*  
11 *or supplemental material available to the institution's campus*  
12 *bookstore, the publisher shall make information available on its*  
13 *Internet Web site regarding the amount of the change in price,*  
14 *whether the price was increased or decreased, and the date or*  
15 *dates when the price was changed.*

16 (f) A publisher that sells a college textbook and any  
17 supplemental material as a bundle ~~or as an integrated textbook~~  
18 shall also make the college textbook and each item of supplemental  
19 material available, as separate and unbundled items at separate  
20 prices, ~~except that this subdivision does not apply to integrated~~  
21 ~~textbooks.~~

22 (g) If a faculty member or entity in charge of selecting course  
23 materials at an institution of higher education directs a publisher  
24 to compile a custom textbook *or bundle*, the publisher shall  
25 provide, in writing, prior to accepting an order for the custom  
26 textbook *or bundle*, the price at which the publisher would make  
27 the custom textbook *or bundle* available to the campus bookstore.

28 (h) *A campus bookstore shall make the textbook or supplemental*  
29 *material available for sale at a price not exceeding an amount*  
30 *that is 20 percent greater than the price at which the textbook or*  
31 *supplemental material was purchased by the campus bookstore,*  
32 *excluding any applicable taxes.*

33 ~~(h)~~

34 (i) Any publisher *or campus bookstore* violating any of the  
35 provisions of this section may be enjoined by any superior court  
36 of competent jurisdiction upon action for an injunction.

37 (j) *This section shall become operative on July 1, 2010.*

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2 CORRECTIONS:  
3 Text—Page 6.  
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